

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PABLO HERNANDEZ,

Plaintiff,

v.

No. CIV 15-00576-KG-GBW

PHILLIP GREER, *Chief*, and
NEW MEXICO ATTORNEY GENERAL,
Hector Balderas,

Defendants.

ORDER FOR AMENDED PETITION

THIS MATTER is before the Court *sua sponte* under rules 4 and 11 of the Rules Governing Section 2254 Cases in the United States District Courts, for preliminary consideration of Petitioner Pablo Hernandez's Petition Under 28 U.S.C. § 2254 Writ of Habeas Corpus By a Person in State Custody, filed on July 2, 2015. [Doc. 1] Also before the Court is Petitioner's Motion and Affidavit for Leave to Proceed Under 28 U.S.C. § 1915, filed on July 2, 2015. [Doc. 2] The Court will grant the Motion and order Petitioner to file an amended petition.

The Petition is not on a standard form nor does it substantially follow the standard form, as required by rule 2(d) of the Rules Governing Section 2254 Cases in the United States District Court. Additionally, the Petition does not "state the facts supporting each ground" for relief, as required by rule 2(c)(2) of the Rules Governing Section 2254 Cases

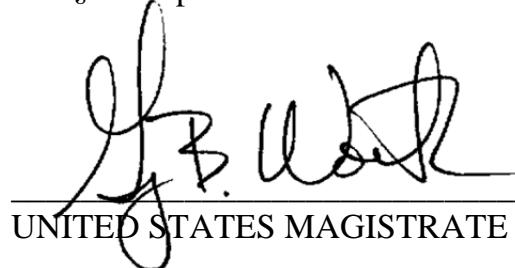
in the United States District Court. Therefore, The Court will require Petitioner to file an amended petition, within thirty days (30) of the date of this Order, which complies with rule 2 of the Rules Governing Section 2254 Cases in the United States District Court. Failure to file an amended petition conforming to this Order may result in dismissal of this proceeding without further notice.

Lastly, the Court notes that a petition under § 2254 only is available to challenge the validity of a petitioner's state conviction and sentence. *See* 28 U.S.C. § 2254(a). To the extent that Petitioner may seek to challenge an administrative order of removal, deportation, or exclusion, a petition for review with the court of appeals is "the sole and exclusive means of review" under the Real ID Act, 8 U.S.C. § 2252(a)(5); *see Ferry v. Gonzales*, 457 F.3d 1117, 1131 (10th Cir. 2006) (noting that "the Real ID Act eliminates a district court's jurisdiction over habeas petitions challenging final orders of removal").

IT IS THEREFORE ORDERED that Petitioner's Motion and Affidavit for Leave to Proceed Under 28 U.S.C. § 1915 [Doc. 2] is GRANTED;

IT IS FURTHER ORDERED that, within thirty (30) days of the date of this Order, Petitioner shall file an amended petition on the standard form provided by the Clerk stating the facts in support of each ground for relief;

IT IS FURTHER ORDERED that the Clerk is directed to mail to Petitioner, together with a copy of this Order, a standard § 2254 petition.



UNITED STATES MAGISTRATE JUDGE